

228672

STATE OF SOUTH CAROLINA

(Caption of Case)

Amended Project Development Application of Duke Energy Carolinas, LLC for Approval of Decision to Incur Nuclear Generation Pre-Construction Costs

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2011 - 20 - E

(Please type or print)

Submitted by: Tom Clements

SC Bar Number:

Address: 1112 Florence Street

Telephone: 803-834-3084

Columbia, SC 29201

Fax:

Other:

Email: tomclements329@cs.com

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

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<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
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<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
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RETURN DATE: 06/01
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**STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION**

DOCKET NO. 2011-20-E

IN THE MATTER OF:)	
Amended Project Development Application of)	
Duke Energy Carolinas, LLC for Approval)	PETITION TO INTERVENE of
of Decision to Incur Nuclear Generation)	TOM CLEMENTS
Pre-Construction Costs)	

Tom Clements hereby petitions the Public Service Commission of South Carolina (Commission), pursuant to the South Carolina Code of Regulations, Chapter 103, and other applicable rules and regulations of the Commission for the permission to intervene in the above-captioned docket. In support of this petition, Mr. Clements submits the following:

1. I live in Columbia, South Carolina and potentially downwind from any nuclear reactors which might be constructed at Duke Energy's Lee site in Cherokee County. I live close to the Broad River and consume water from the Broad River, into which cooling water from the as-of-yet unlicensed Westinghouse AP1000 reactors would be discharged and I have engaged in recreational activities in the area of the Broad River very near the proposed reactor site, which I have toured on a formal visit, and I intend to return to the area to engage in activities.

Further, I have a direct interest in promotion of conservation, efficiency and alternatives in the state of South Carolina and Duke's efforts in this area are negatively impacted by Duke's plans for new nuclear reactors.

Further, I have direct interest in Duke's plans related to the Lee project as it has been reported that Duke could possibly have interest in participating in the South Carolina Electric & Gas nuclear project at the V.C. Summer site. As well, I am aware of concern about Duke's apparent intent to take partners out of North and South Carolina, thus forcing residents in the two states to bear the financial and environmental risk of the nuclear project for the benefit of residents living far away in another state.

In addition, I am well aware of the March 8, 2011 news release by the Nuclear Regulatory Commission which stated that the NRC has determined that Duke's Oconee 1, 2 and 3 reactors had at least one "degraded safety cornerstone" in 2010 and thus the reactors were placed under additional oversight and inspection by the NRC, which reflects poorly on Duke's management of nuclear projects. Given my knowledge of

nuclear issues related to Duke Energy and state-wide, I commented to the media about this situation at Oconee.

Also, I am aware that the nuclear reactor disaster in Japan will add additional financial and regulatory uncertainty related to the plans for Duke's Lee reactors and that the accident will have a negative impact on public confidence in Duke Energy's nuclear energy project and likely undermine whatever confidence may have remained in the financial community. I have done dozens of interviews about the impact of the Japanese situation on the U.S. nuclear power industry, including on Duke Energy, and given my work in Japan and on U.S. nuclear programs for over 30 years, have unique insight and knowledge of Duke's reactor project from a public interest perspective.

2. As the Southeastern Nuclear Campaign Coordinator for Friends of the Earth, I work with Duke rate payers who are Friends of the Earth supporters impacted by any pre-construction costs that might be granted to the company in this docket. Given that I have a direct and material personal interest and a long-standing professional interest in the proceeding and that my interests are not adequately yet represented by other intervenors, I am compelled to hereby intervene.
3. Although formally representing only myself in the current proceedings, I have participated in an earlier proceeding in this pre-construction matter before the Public Service Commission as a representative of Friends of the Earth, which has been a formal party to proceedings. Given my involvement in that proceeding, I am aware that a large amount of money has already been incurred by Duke Energy via site preparation and license application preparation and that such expensive actions are continuing even though the project could be further postponed or canceled, placing rate payers with whom I work at financial risk and diverting large amounts of money which could be spent on planning for safer energy options. Additional pre-construction costs will divert yet more rate payer-financed resources into a questionable project and away from clean energy.
4. Thus, given that I am concerned about the impact of the Lee nuclear reactor project to the environment, public health, rate payers and to the financial soundness of the company, my interests and those with whom I work will be best represented by this intervention.

While supportive of efforts to protect the environment, public health and rate payers, my position in the docket in relation to the current request is not fully developed. I request the right to question witnesses and present witnesses but at this time have not decided to present witnesses.

I believe that granting my request to be made a party of record in the above-captioned proceeding is in the public interest, is consistent with the policies of the Commission in encouraging maximum public participation in the issues before it, and should be allowed so that a full and complete record addressing my views and concerns can be developed.

This intervention is further made timely in that the Westinghouse AP1000 reactor being pursued by Duke Energy for the Lee site is under a license review by the Nuclear Regulatory Commission at this moment and that concerns have been raised about the AP1000's lack of a

large, robust containment building and the ability of the steel shell over the containment to survive severe accidents, many of which have not been imagined, as we can witness by the tragic Japanese accident unforeseen by the nuclear industry.

I therefore request that this petition to intervene be granted by the Commission and that I be made a formal party of record to the proceeding and that I be allowed to participate fully in this proceeding and to take such positions as I deem advisable.

I hereby certify that I have mailed copies of this Petition to Intervene to all parties which have formally intervened in this docket and which are so listed on the docket website.

March 18, 2011

A handwritten signature in black ink that reads "Tom Clements". The signature is written in a cursive style with a long horizontal stroke at the end.

Tom Clements
1112 Florence Street
Columbia, SC 29201
tel. 803-834-3084
tomclements329@cs.com

Attachments to Intervention of Tom Clements in **DOCKET NO. 2011-20-E**

1. Financial Analysts Downgrade Nuclear Power in Wake of Japan Crisis, listing of quotes from financial community, 3 pages
2. “Hurdles for nuclear plants in Carolinas loom,” Raleigh News Observer, March 16, 2011, 2 pages
3. “Duke signs partner for Lee nuke plant,” Charlotte Business Journal, February 9, 2011, 2 pages
4. “JEA signs contract with Duke Energy,” Daily Record, February 9, 2011, 2 pages
5. “NRC issues Annual Assessment Letters for Nation’s Nuclear Plants,” U.S. Nuclear Regulatory Commission news release, March 8, 2011, 2 pages

March 18, 2011

FINANCIAL ANALYSTS DOWNGRADE NUCLEAR POWER IN WAKE OF JAPAN CRISIS

“Standard and Poor's warned clients that the risk of cancellations or delays for existing and future nuclear projects has increased as a result of the situation in Japan.” (See <http://www.reuters.com/article/2011/03/14/us-nrg-nuclear-idUSTRE72D7VH20110314>.)

“The severe nuclear incident in Japan has put a global nuclear renaissance into question,” Bernstein International analyst Alex Barnett said in a research note.” (See <http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/nuclear-renaissance-melts-down-over-japan-disaster/article1941961/>.)

“Bank Of America Merrill Lynch's Steve Fleishman cuts ratings on Entergy Corp. (ETR) and Scana Corp. (SCG) to underperform from neutral: ‘While the Japan nuclear event has implications for all U.S. nuclear plants [including] the risk of delay or higher cost as part of approvals for new nuclear plants (SCG, Southern Co. (SO)) as well as relicensing of existing plants (ETR); public concern on nuclear plants located in earthquake-prone areas (PG&E Corp. (PCG), Edison International (EIX)); and overall higher costs for non-regulated nuclear plants (Exelon Corp. (EXC)), which the owners have to absorb. NRG Energy Inc. (NRG), however, could benefit from increased potential that new nuclear goes away.’” (See <http://online.wsj.com/article/BT-CO-20110314-710773.html>.)

“BMO Capital Markets' Michael S. Worms cuts Entergy to market perform from outperform: ‘Relicensing approval of Vermont Yankee by the Vermont legislature has long been in question; however, we believe concerns relative to the nuclear issues currently facing Japan could be the final blow.’ (See <http://online.wsj.com/article/BT-CO-20110314-710773.html>.)

“Some industry analysts, however, have already begun predicting the (South Texas Project) expansion's demise — and are describing it as a favorable financial prospect for NRG. Others say the Japanese disaster is practically irrelevant. ‘This almost doesn't change the fact that new nuclear looks to be a bad investment,’ said Paul Fremont, a managing director at Jeffries and Company, an industry analyst. ‘Constellation (Energy) walked away and said keep your loan guarantee, it's not economic to build.’ (See <http://www.chron.com/dispatch/story.mpl/business/7472339.html>.)

“Given the lower overall probability of [South Texas Project] (expansion),’ UBS Utilities said in an analyst report Monday, ‘we see positive implications for NRG shares.’ Others think ongoing efforts to stop the expansion from being licensed could prevail. (See <http://www.mysanantonio.com/news/energy/article/CPS-Energy-suspends-talk-about-nuclear-expansion-1128743.php>.)

“Analysts at Moody's said the Japanese nuclear problems create ‘uncertainty’ for the NRG expansion project, but abandoning the project would be a positive for the company

due to uncertainty over its cost.” (See <http://www.reuters.com/article/2011/03/14/us-nrg-nuclear-idUSTRE72D7VH20110314>.)

“For NRG Energy we think the potential added pressure could be the end of its nuclear loan guarantee award from the Department of Energy for STP (units) 3 and 4 in Texas which could cause a write-off in the short term, but would be likely positive in the long-term,’ Barclays wrote in a note to clients.” (See <http://www.reuters.com/article/2011/03/14/us-nrg-nuclear-idUSTRE72D7VH20110314>.)

Palisades Hudson Financial Group: “... the fact remains that any accident at a nuclear power plant carries the risk of catastrophic long-term consequences. There are many other ways to generate electricity, and none of them create the potential for cataclysm, or the need to quarantine their byproducts for centuries. If we honestly accounted for the true costs of nuclear power, there is a very good chance we would conclude that it does not make sense for anything other than submarines and spacecraft.” (See <http://palisadeshudson.com/2011/03/obama-energy-policy-lies-in-japans-rubble/>.)

“While Washington D.C. is still sticking by the defense of nuclear power, anything tied to nuclear power is getting crushed all over again today. PowerShares Global Nuclear Energy (NYSE: PKN) fell 11.5% yesterday and the ETF is indicated down around \$18.35 this morning. iShares S&P Global Nuclear Energy Index (NASDAQ: NUCL) saw an 8% drop yesterday and is also indicated lower. The Global X Uranium ETF (NYSE: URA) is down another 10% at \$14.15 this morning. US-based centrifuge player USEC Inc. (NYSE: USU) was also down 11% Monday and shares are indicated down 9.8% this morning. Canadian uranium miner Cameco Corp. (NYSE: CCJ) was down 12.7% Monday and shares are indicated down another 12% at \$28.65 this morning. Shaw Group Inc. (NYSE: SHAW) is a manufacturer of nuclear and other power plants, and its shares were down 9.2% Monday. The stock is getting another fire sale with shares indicated down 9% more at \$31.70 in pre-market trading. Uranium Resources, Inc. (NASDAQ: URRE) fell a whopping 25% on Monday and shares are getting clipped by another 17% at \$1.45 in early Tuesday pre-market trading.” (See [Nuclear Power Gets Killed All Over Again, Japan-Watch \(PKN, NUCL, URA, USU, CCJ, SHAW, URRE, GE\) - 24/7 Wall St. http://247wallst.com/2011/03/15/nuclear-power-gets-killed-all-over-again-japan-watch-pkn-nucl-ura-usu-ccj-shaw-urre-ge/#ixzz1GgO4S7Fz](http://247wallst.com/2011/03/15/nuclear-power-gets-killed-all-over-again-japan-watch-pkn-nucl-ura-usu-ccj-shaw-urre-ge/#ixzz1GgO4S7Fz).)

“‘Toshiba said they wanted to put a lot of focus on nuclear power,’ said Yuuki Sakurai, CEO of Fukoku Capital Management. ‘It’s not so much a problem with a particular manufacturer, it’s about the whole issue of safety, but firms that have put a lot of emphasis on nuclear power will suffer corresponding damage.’” (See <http://www.reuters.com/article/2011/03/15/us-japan-quake-toshiba-idUSTRE72E1H220110315>.)

“Matthew Zylstra, analyst with Northern Securities, noted major uranium producing companies such as Cameco Corp. (-12.7%), Uranium One Inc. (-27.7%) and Denison

Mines Corp. (-22.3%) all took major hits in trading on Monday 'With the general decline in most commodity stocks, which has brought down valuations, we think there might be an opportunity in some of the coal names as investors shift out of 'risky' sources of energy and into coal,' he said in a note." (See [http://business.financialpost.com/2011/03/15/coal-stocks-gain-on-uranium-woes.](http://business.financialpost.com/2011/03/15/coal-stocks-gain-on-uranium-woes))

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Hurdles for nuclear plants in Carolinas looms

BY JOHN MURAWSKI - Staff Writer

PUBLISHED IN: LOCAL/STATE

The nuclear accident unfolding in Japan is raising questions about whether Duke Energy and Progress Energy will get the legislation they say is essential to building nuclear plants in North Carolina and South Carolina.

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The legislation would allow the utilities to raise customer rates to pay for the plants during construction without having to go through lengthy rate hearings.

Duke CEO Jim Rogers told state utility regulators Tuesday that he had hoped the legislation would be introduced this week. And he assured the N.C. Utilities Commission that the bill would be introduced soon, "although the Japanese events may delay it."

But Sen. Tom Apodaca, a Republican from Western North Carolina who is handling the nuclear legislation, said Tuesday that the bill is being researched and is "nowhere near prime time."

The Charlotte-based power company has repeatedly said it will not be able to raise money on Wall Street to build an \$11 billion reactor to supply power to the North Carolina and South Carolina if the General Assembly does not pass a law allowing streamlined cost recovery. Several states, including South Carolina, have such a law.

Rogers said such a process would significantly lower the cost to customers by reducing debt payments, but critics say it shifts the financial risk from Wall Street investors to the state's homeowners and businesses.

Rogers was testifying before the commission, which is deciding whether to allow Duke to spend up to \$287 million on preliminary development costs for the planned Lee nuclear plant in South Carolina. Duke has already spent \$172 million on legal and engineering costs toward the project.

Several commissioners expressed doubt about allowing Duke to spend \$287 million more on a nuclear project that's contingent on a state law that has not yet been introduced in the legislature and has no guarantee of passage.

Commission Chairman Edward Finley Jr. said: "My concern is that you don't get the legislation."

One of those who testified in Raleigh against Duke's request Tuesday was Peter Bradford, who was a commissioner on the U.S. Nuclear Regulatory Commission during the 1979 accident that led to the partial meltdown at the Three Mile Island plant in Pennsylvania.

That U.S. accident awakened the public to nuclear risks and crippled the nation's nuclear industry,

forcing the cancellation or abandonment of about 60 nuclear projects in the 1980s. Bradford said the Japanese accident could have similar consequences.

"Having all of the world's money managers watch a nuclear power plant blow up once a day for three days, after having been assured all their lives that was an impossible event, is not going to improve the risk profile of new nuclear units when they come looking for money," Bradford said during a break in the hearings.

After the commission hearing, Rogers acknowledged that Japan's nuclear accident could complicate nuclear prospects in this state.

"Common sense tells me that the nuclear accident is going to force some rethinking of the role of nuclear," Rogers said.

john.murawski@newsobserver.com or 919-829-8932

http://www.bizjournals.com/charlotte/blog/power_city/2011/02/duke-signs-partner-for-lee-nuke-plant.html

Charlotte Business Journal

Duke signs partner for Lee nuke plant

Wednesday, February 9, 2011

John Downey

Senior staff writer

Email: jdowney@bizjournals.com

The municipal utility for Jacksonville, Fla., has bought an option to purchase up to one-fifth of Duke Energy's proposed Lee Nuclear Station for about \$2 billion.

JEA, the municipal utility, approved the \$7.5 million option purchase last week, according to testimony that Duke Chief Executive Jim Rogers filed with the N.C. regulators Tuesday.

Duke has not yet filed for permission to build the proposed plant with South Carolina regulators. Duke had been expected to file a petition with the S.C. Public Service Commission this year.

JEA spokeswoman Gerri Boyce says the \$2 billion estimate on the price is based on current projections for Lee's cost, and will be subject to later negotiation.

Rogers says in the filing that JEA can buy from 5 percent to 20 percent of the Lee plant, which is proposed for Gaffney, S.C. If JEA buys a smaller share, the price would be lower.

Contract details

Before the option takes effect, Duke must sign an engineering and construction contract and complete other specified agreements. It must also obtain a combined operating license from the Nuclear Regulatory Commission.

Duke will then give JEA notice it intends to proceed with the project. JEA must exercise its option within 90 days of getting that notice, Rogers says.

IF JEA does opt to buy in, it will participate with Duke in the filing with South Carolina regulators.

First partner

Duke has said repeatedly that it wanted partners in the Lee 2,234-megawatt project. JEA has agreed to buy up to 440 megawatts of the capacity, and so is the first potential partner to sign any formal agreement with Duke.

Rogers says Duke will continue to look for other potential partners.

Duke has also said it wants North Carolina to change its law on how utilities recover the costs of nuclear construction before it goes ahead with Lee. Duke wants North Carolina to drop a requirement for full-blown rate cases each time it seeks to charge customers for a portion of the plant as it is built.

Boosting nuclear portfolio

Duke spokeswoman Rita Sipe says that, although Duke still cannot say it will definitely proceed with Lee, "this is very positive news for the project."

JEA wants to increase the amount of nuclear power in its portfolio to 30% by 2030. It currently has about 10% of its energy coming from nuclear plants. It has already signed a 20-year power purchase agreement to buy electricity from the 2,234-megawatt expansion of the Vogtle nuclear plant the Southern Co. proposes to build in Georgia. That plant is expected online in 2018.

Boyce says JEA expects the Lee plant to be operating by about 2021.

John Downey covers the energy industry for the Charlotte Business Journal

http://www.jaxdailyrecord.com/showstory.php?Story_id=532900

Daily Record

Jacksonville, Florida

JEA signs contract with Duke Energy

02/09/2011

by Joe Wilhelm Jr.
Staff Writer

The JEA has reserved its place in line for a share of the energy produced at a proposed nuclear power plant in South Carolina.

Duke Energy is in the permitting process in its effort to construct the proposed 2,234-megawatt Lee Nuclear Station in Cherokee County, S.C.

Duke Energy signed an agreement with JEA Tuesday giving the local utility an option to acquire up to 20 percent (about 440 megawatts) of the power plant.

The \$7.5 million investment gives JEA time to decide if it wants to proceed with the purchase of the 20 percent. If it proceeds, the option amount will be applied to the purchase.

“The option agreement secures our opportunity to participate in a project which matches our longer term need for additional generation capacity, maintains flexibility with our investment decisions and provides further diversification to our current generation portfolio,” said Paul McElroy, JEA chief financial officer.

“Additionally, with Duke we got the type of partner we sought, one with the significant financial, technical and operating resources necessary to be successful in a project of this magnitude.”

Duke Energy anticipates the receipt of its construction and operating licenses by 2013 and then plans to have the first of two AP1000 reactors online by 2020 or 2021.

“It really provides an opportunity for both Duke Energy and JEA. For us, it allows us to share benefits with our customers by helping spread the project cost,” said Rita Sipe, spokesperson for Duke Energy.

“As we look forward, it helps us both provide safe dependable energy into the future,” she said.

Duke Energy estimated the cost of the plant at \$11 billion.

The option agreement can be exercised following receipt of the Nuclear Regulatory Commission license for a nuclear plant, negotiation and execution of Duke Energy's engineering, procurement and construction contract, and negotiation of an ownership, operating and maintenance agreement with JEA, according to Gerri Boyce, media relations coordinator for JEA.

The partnership was pursued at the direction of the JEA board of directors who attended a nuclear energy workshop during the summer.

The board decided it wanted to reduce JEA's use of fossil fuels for energy generation and target up to 30 percent of JEA energy requirements to be met with nuclear energy by 2030.

JEA already has a power purchase agreement in place with the Municipal Electric Authority of Georgia that would provide about 10 percent of its electricity through nuclear energy by 2017.

jwilhelm@baileypub.com



NRC NEWS

U.S. NUCLEAR REGULATORY COMMISSION

Office of Public Affairs

Telephone: 301/415-8200

Washington, D.C. 20555-0001

E-mail: opa.resource@nrc.gov Site: www.nrc.gov

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No. 11-036

March 8, 2011

NRC ISSUES ANNUAL ASSESSMENT LETTERS FOR NATION'S NUCLEAR PLANTS

The Nuclear Regulatory Commission has issued annual assessment letters to the nation's 104 operating commercial nuclear power reactors. As of December 31, 2010, 98 of 104 nuclear reactors were in the two highest performance categories.

"We ensure nuclear power plants are safe, continually inspecting them and rating their performance on a regular basis, as part of our mission to protect people and the environment," said Eric Leeds, director of the NRC's Office of Nuclear Reactor Regulation.

There are five levels of plant performance based on a detailed assessment of performance indicators (e.g., safety system availability and reliability, control of radiation exposure and unplanned shutdowns) and inspection findings. Levels range from "fully meeting all safety cornerstone objectives" (highest level) to "unacceptable performance" (lowest level).

All nuclear plants are inspected daily by the NRC. If a plant's performance declines, the NRC increases the level of inspection and oversight to ensure the plant operator is taking the steps necessary to correct the situation. The additional amount of inspection is commensurate with the level of plant performance. Additional information on the Reactor Oversight Process is available at: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1649/r4/>.

Eighty-nine nuclear reactors performed at the highest level and were inspected by NRC using the normal detailed level inspection program.

Nine nuclear reactors performed at the next highest level, needing to resolve one or two items of low safety significance. For this performance level, regulatory oversight includes additional inspection and attention to follow up on corrective actions. These plants were: Brunswick 1 and 2 (N.C.); Calvert Cliffs 2 (Md.); Farley 1 (Ala.); Ginna (N.Y.); North Anna 2 (Va.); Susquehanna 1 (Pa.); Turkey Point 3 and 4 (Fla.)

Six nuclear reactors were at the third level of performance with one degraded safety cornerstone. For this performance level, regulatory oversight includes more NRC inspections, senior management attention and oversight focused on the cause of the degraded performance. These plants were: Oconee 1, 2, 3 (S.C.); Fort Calhoun (Neb.); H. B. Robinson 2 (S.C.); and Wolf Creek 1 (Kan.)

Later this spring and summer, the NRC will host a public meeting or other event in the vicinity of each plant to discuss the details of the annual assessment results. A separate announcement will be issued for each plant meeting. In addition to the annual assessment letters, plants also receive an NRC inspection plan for the coming year.

Note that since the end of 2010, the NRC routinely provides changes to information on plant performance and posts the latest information as it becomes available to the NRC website at: http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/actionmatrix_summary.html.

Each plant receives either a mid-cycle review letter or an annual assessment letter every six months, along with an NRC inspection plan. The next mid-cycle assessment letters will be issued in September 2011. The annual assessment letters sent to each licensee are available on the NRC website at: <http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/listofasmrpt.html>.

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